

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on March 17, 2003 at 9:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Gregory D. Barkus (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Keith Bales (R)
Sen. Edward Butcher (R)
Sen. Bob Keenan (R)
Sen. Trudi Schmidt (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 176, 3/7/2003; HB 554,
3/10/2003; HB 19, 3/10/2003

Executive Action:

HEARING ON HB 176

Sponsor: JEFF PATTISON, HD 95, Glasgow

Proponents: Steve Wade, Dry Prairie Regional Water Project
Dan Keil, North Central Rural Water Authority
REP. DAVE KASTEN, HD 99, Brockway
SEN. LINDA NELSON, SD 49, Medicine Lake

Opponents: None.

Opening Statement by Sponsor:

JEFF PATTISON, HD 95, Glasgow, opened on HB 176, a bill for payment of regional water system costs for Dry Prairie and North Central water districts from a special revenue account. Administrative costs will be taken out of the **Treasure State Endowment Program** instead of the general fund. There is enough money in **TSEP** to avoid a hardship. Due to the general fund shortfall, the Budget Office proposed taking the money out of the regional water projects. The regional water fund has \$10 million, and the interest is a little over a million. It will not affect the funding source at all. He noted federal matching funds would be available; for every \$5, they will get \$95 in matching funds. The drought and the budget crisis place extreme pressure on existing money sources, including those set aside to build municipal and rural water systems. The legislature passed a funding mechanism for the state share of construction costs of regional water systems in 1999 with **SB 220**. This legislation created **TSEP** and 50% of the coal severance tax goes to maintain collateral reserves for school bonds. Any amount not needed for that is divided in two ways: 75% is placed in the **Treasure State Endowment Fund** and 25% is placed in the **Treasure State Endowment Regional Water System Fund**. Only the interest from the regional water system fund is eligible for use by regional water systems. Since the economic downturn in Montana and the nation, both the contributions and interest to the fund have been reduced. It was his hope the fund could still provide necessary monies for the state contribution to regional water systems.

Proponents' Testimony:

Steve Wade, Dry Prairie Regional Water Project, testified the bill provides some needed assistance with getting the projects going. The Dry Prairie Project is approximately a \$200 million project, and has been authorized and included in federal budgets.

It is anticipated they will actually start moving some dirt in the summer. He asked for concurrence on the bill.

Dan Keil, North Central Rural Water Authority, advised they have been receiving support from state government on the operation and start-up costs involved in developing this concept, and they need to continue. They developed this method of funding; their central program was funded through the general fund for the last two years and they wanted a more permanent source of funding.

REP. DAVE KASTEN, HD 99, Brockway, testified regional water projects are very important for the state. In 1981, he testified in front of a committee that Montana should be looking to do something to their water before South Dakota. South Dakota water districts have been in place since 1982, and Montana is just getting started.

SEN. LINDA NELSON, SD 49, Medicine Lake, requested she be listed as a proponent.

Opponents' Testimony: None.

Informational Witnesses:

Jim Edgcomb, Department of Commerce, advised he manages the **Treasure State Endowment Program** and would be available for questions.

Questions from Committee Members and Responses:

SEN. ROYAL JOHNSON referred to the original bill on line 18, which talks about using local funds as well as **TSEP** funds. He wondered if it was a partnership or a one-way deal and what local funds had been added to the project so far.

Mr. Edgcomb explained that once a project starts into construction, every dollar that comes out of the regional fund is required to be matched by one local dollar.

SEN. JOHNSON asked if this money is not going to come out of the water fund.

Mr. Edgcomb advised the money will come out of the regional fund. Currently, there are no systems, so there is no way for them to collect fees. They don't have revenues or any money of their own to work with. In the past they've been getting monies from the general fund for this purpose. These administrative funds will go directly to the two regional water authorities for their planning efforts, and to **DNRC** for the position that coordinates

the state's efforts. Instead of coming out of the general fund, it would come out of the regional water account. It would not require any local match; it will just be a straight grant for that purpose.

SEN. JOHNSON asked if the **TSEP** account has surplus money.

Mr. Edgcomb replied the **Treasure State Endowment Program** is funded through the **Treasure State Endowment Fund**. That is a large trust at this point and is used to fund the projects in **HB 11**. The regional water projects are funded through a separate and smaller trust fund--the **Treasure State Endowment Regional Water Project Fund**. No monies have been utilized from that account which has been slowly building to about \$15 million. At the end of the next biennium, there should be about \$4.5 million available, and once the \$660,000 is subtracted out that is to be utilized for funding the **DNRC** position and for the grants to the two regional water authorities. About \$3.8 million will remain.

SEN. RICK LAIBLE asked about the technical notes and the state's share of overall costs. There is some question about whether or not there would be enough generated funds within a biennium to cover the state share of the water projects.

REP. PATTISON explained the assumptions on the water system funds. The bill is amended so the appropriation is out of **DNRC**.

SEN. LAIBLE asked about the change to the funding ratio. He asked where the federal funding comes in.

REP. PATTISON contended there is a federal match for regional water projects and it is like seed money, similar to highway funds.

SEN. LAIBLE asked **Mr. Edgcomb** about the federal funds and if there are federal funds for the Dry Prairie Water Project.

Mr. Edgcomb advised there are approximately \$5 million in federal funds that have been appropriated for planning efforts, the final design, and the environmental.

SEN. LAIBLE asked if the reason was the reservation.

Mr. Edgcomb said the project is tied to a reservation and that's the reason it will probably happen. These funds are going to be appropriated year after year, and that is one of the reasons for blocking efforts. The regional authorities don't get all the money at once. Each year they must ask for an appropriation to cover construction costs for the coming year. Money is already

appropriated for the Dry Prairie Project and no money has been appropriated yet for the North Central Project.

SEN. JON TESTER asked how many dollars are in the **TSEP** regional water fund.

Mr. Edgcomb said about \$15 million. At the end of the biennium, they're looking at about \$4.5 million in interest earnings that can be utilized for the projects.

SEN. TESTER was under the assumption each one of these projects was going to require about \$10 million.

Mr. Edgcomb advised that is correct based on current dollars. He was sure those costs would grow with time to some degree.

SEN. TESTER assumed the flow of money going into the fund would not just be interest. He wondered how \$20 million could be achieved.

Mr. Edgcomb contended it's based on the principle growth in the trust fund; they aren't counting on the interest growth. The ability to utilize the interest earnings to earn additional money is based on the growth in the principle.

SEN. TESTER asked if this was the case even with the draw-down for administrative expenses.

Mr. Edgcomb replied probably so. If ten more years is needed in order to see these projects through, it would add approximately \$3.3 million. They were concerned about the local share increasing the state share and whether there would be sufficient funds.

SEN. TESTER asked if **HB 361** passes, would that affect the viability of the fund.

Mr. Edgcomb advised potentially.

SEN. TESTER asked if the money has been appropriated for the project in the northeast.

Mr. Edgcomb advised there have been monies appropriated for planning efforts, engineering, and environmental, but he was not aware of any money appropriated yet for construction. They will have to go back each year to appropriate monies for that project.

SEN. TESTER asked if North Central has no planning money.

Mr. Wade said it is his understanding that Dry Prairie has construction money authorized for this year, and North Central has money for planning appropriated and will be doing some planning this summer. It is a long-term process.

SEN. TESTER asked if the intent of this bill is to fund state and local administrative costs after the projects are done, or just while they are in construction.

Mr. Edgcomb advised this is to get these projects going. Once it's been built, they will be generating their own revenues to operate their systems. The position at **DNRC** may continue to be funded because there may be other projects down the road.

SEN. TESTER stated there is a potential of the position at the state level but not the funds that go to the local level for administrative costs. This bill only applies to the construction phase.

Mr. Edgcomb asked him to restate the question.

SEN. TESTER said the bill provides funding for administrative expenses to state and local entities, so there will be administrative expenses after the project's done. The bill will not apply to those administrative expenses after the pipeline is up and running and the water is being distributed.

Mr. Edgcomb did not believe the state is going to be providing any monies for regional water authorities once they are constructed.

SEN. NELSON said there is a bill to change the match from one to one, to one to two.

Mr. Edgcomb advised the bill is **HB 361** by **REP. JOHN WITT** and originally would have changed it to a three to one match. That bill has been tabled and he didn't know if there was a possibility of it being brought back. The bill is before **House Appropriations**.

Closing by Sponsor:

REP. PATTISON closed on the bill. He advised if there is a hardship, the funding rate would come up a little bit more. There is a tie-in fee of \$35 to \$135 per household. There are local fund-raising efforts for matching monies on behalf of communities. **{Tape: 1; Side: B}** He stressed that just the interest out of the **TSEP** regional water system fund is being used for this, and it is about \$3 million. The state share is

\$660,000 for the biennium, and the state funding will match federal dollars for full construction costs of over \$5 million. Based on the projection, there will be adequate funding. The **TSEP** regional fund will generate \$3 million in interest over the biennium. Currently, there are two federally authorized regional water systems in Montana: Fort Peck Regional Water System and Rocky Boy's North Central Regional Water System. The Fort Peck Regional Water System serves the Fort Peck Reservation and the communities and farms surrounding the reservation. That will be paid for with \$202 million federal and \$18 million non-federal split between Dry Prairie Water Authority and the state. Rocky Boy's North Central Water System was authorized by Congress in December, 2002, and provides drinking water to the reservation and communities in north-central Montana. Drinking water is vital to the health, wealth, and welfare of the people. There are a lot of people who don't want to move to **SEN. NELSON'S** area because of the water quality. If there is a viable, clean, and safe source of water, it could mean people would want to move to northeastern Montana. With another drought year, having a source for fire suppression would save money and time. Increased property values and jobs will be a benefit. There is a 10 year time frame for construction. He hoped for favorable consideration.

HEARING ON HB 554

Sponsor: REP. DAVE KASTEN, HD 99, Brockway

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. DAVE KASTEN, HD 99, Brockway, opened on HB 554 which would revise the procedure for reclamation grants and loans. The bill will reduce the statutory priority for reclamation development grants given to the Montana Board of Oil and Gas Conservation from \$600,000 this biennium to \$200,000, and remove \$800,000 for abandoned mine reclamation for the 2005 biennium only. The reclamation grant program will experience a 20% reduction in granting ability resulting from actions during special session in August of 2002. This bill provides the **Department of Natural Resources and Conservation** more flexibility during this period of reduced funds. As a result of changing the statutory prioritization, fewer state agency projects will be funded, and more community projects will be funded through reclamation and development grants. Those grants are in **HB 7**.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Witnesses:

Tom Livers, Department of Environmental Quality, advised **DEQ** administers abandoned mine reclamations and this bill will impact some of their projects. The Executive recognized potential limitations on RIT funds because of reduced earnings from the trust, reduced revenues from various resource taxes, and potential diversions that might be coming through various bills. Executive agencies met to come up with some worst case scenarios and what they could do help if all those factors converged. **DEQ** volunteered to reduce the number of abandoned mine reclamation grants funded through the reclamation and development grant program. There is a statutory threshold of \$800,000 per biennium for abandoned mines projects. **HB 554** temporarily suspends that threshold for this biennium. The situation is somewhat less serious with **HB 177** being tabled. They expect there will be abandoned mine projects funded and the current plans are to fund those at the \$600,000 level instead of \$800,000, so the bill would still be necessary.

John Tubbs, Department of Natural Resources and Conservation, advised he would appear as an informational witness but could also be counted as a proponent. The special session had already reduced the reclamation and development grants program from \$5 million to \$2.7 million. They were allowed \$3 million in interest plus an additional allocation of tax revenue by statute, and with the actions of the special session, they reverted the tax revenues to the general fund and reduced the interest. As a result, local governments were not receiving very many grant dollars. It was directly related to a reduction in revenue as much as to the priorities they had to adhere to in statute. The **Long Range Planning Committee** made a determination to set aside the priorities for two years, get through this difficult time of revenues, and allow maximum flexibility in **HB 7** for the legislature to award grants. The bill was amended to reinsert \$200,000 in oil and gas priorities.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

REP. KASTEN closed on the bill. He thanked the Board of Oil and Gas and **DEQ** for giving them the flexibility.

Sponsor: REP. DAVE KASTEN, HD 99, Brockway

Proponents: None

Opponents: Eric Feaver, MEA-MFT
Lance Melton, Montana School Board Association

Opening Statement by Sponsor:

REP. DAVE KASTEN, HD 99, Brockway, opened on **HB 19**, which amends the current expenditure limitation. Current law has absolutely no meaning; both the Budget Office and the Legislative Finance Division don't use it. Last session, the budget increased almost a billion dollars, of which \$187 million was general fund. Under current law, the budget could have increased an additional \$128 million general fund. **HB 19** puts a more meaningful cap on expenditures. It applies to the Governor's budget as well as legislative appropriations. Last session, his bill was **HB 525**; it passed the House but was tabled in the Senate. Staff informed him that, had the bill passed, the ending fund balance would have been \$34 million and the Governor would not have had to make her first round of cuts. The Governor's budget has to conform to the limitations on the bottom of page 2. It has to identify any expenditures in excess of the limitations. The needs will be in the budget that she builds, and the wants will be segregated. On page 3, the legislative fiscal analyst will have to determine that the legislative budget conforms with expenditure limitations. Appropriations in excess of that must be approved by a 2/3 vote. In Section 3, the formula for the expenditure limitation is set. Section 4 strikes the old expenditure limitation. Section 5, is the effective date, and Section 6 is the applicability date. He distributed and discussed a handout from the Legislative Budget Analysis Volume 1. **EXHIBIT(fcs56a01)** He explained he cleaned the bill up a little from last session; an ending fund balance and a rainy day provision were stripped off and he thought the current bill is a better one. He felt it is a tool that both sides of the isle should look at. It is nonpartisan and a good budget tool.

Proponents' Testimony: None.

Opponents' Testimony:

Eric Feaver, MEA-MFT, advised he opposed the bill in the last session and it died in the **Senate Finance Committee**. He thought **House Appropriations** would kill the bill this time, so he didn't say anything. He referred to the bill as a "hamstring government" bill. In this session they are trying to figure out

how to make a tax and spend deal to get out of the session. If this bill were to pass, the next session will be no easier. This bill requires a super majority to go beyond the "so-called inflation factor". He felt they had enough of minority rule, and wondered why they would impose more minority rule upon themselves. The bill has potential constitutional questions. The Governor cannot be limited by the legislature in the budget she proposes. The legislature may decide not to pay for that budget, and they had already made that decision; they cannot tell her she can't propose a budget. They are putting parameters on what kind of budget she can propose. There is ambiguity in the bill in directing the Governor when proposing her budget. The bill doesn't include tax expenditures in the limitation. He said it is a complex formula, it is hard to understand, and will add to the crunch at the end of the session. He urged tabling the bill as they did last session.

Lance Melton, Montana School Board Association, opposed the bill. He distributed charts prepared by the **Legislative Fiscal Division** for Senate majority leadership that analyzed what's happened to the state funding of schools over the last eight years. It goes from the first year after the passage of **HB 667**, the current statutory formula for funding schools in compliance with the Montana Constitution and the **Montana Supreme Court's** opinion. He explained the first chart is not adjusted for declining enrollments. **EXHIBIT(fcs56a02)** School districts have had to cut approximately \$125 million out of BASE budgets and some has been due to declining enrollment. The second chart accounts for declining enrollment. **EXHIBIT(fcs56a03)** It translates to a shortfall in the BASE budget of about \$48 million a year statewide. In terms of the full budget, it is cut \$56 million a year. They didn't like it when they saw the Corrections budget go up substantially in one biennium, but they understood it. That would require a 2/3 vote under the bill to comply with a court order. It would require a 2/3 vote to solve the constitutionally required school funding formula. They can't afford to lock into place the \$48 million annual shortfall in their BASE budgets on a per pupil basis. The bill, if passed, would contradict **SB 303** by senate education chair **SEN. BILL GLASER** which calls for implementation of an inflationary adjustment. He asked that they table the bill or amend it so it does not apply to state general fund expenditures for K-12 public education, as they have a \$48 million gap between inflation and what was funded on a per pupil basis since equalization was implemented in FY 1994.

Questions from Committee Members and Responses:

{Tape: 2; Side: A}

CHAIRMAN TOM ZOOK contended total spending exceeds the inflation rate in K-12 according to a chart by **SEN. GLASER**. He asked **Mr. Melton** if he agreed with that.

Mr. Melton advised he had seen the chart. He handed out another chart in response to the question. **EXHIBIT (fcs56a04)** Total spending including transportation, bus depreciation, federal spending, local spending, and state spending all together show a slight advance above inflation during that time period. What is being dealt with here, and what the state does with respect to school funding, doesn't touch all the different aspects of school funding. It has nothing to do with the revenues that need to be raised to fund federal programs and federal mandates. School districts depreciates their buses and pays for that depreciation through a local tax. In order to pay for the general operation and compensate staff, about 70% of all spending comes from the state general fund. The chart shows the state aid is 14% below inflation. Spending to replace a bus with local taxes, or a dramatic increase in federal funding along with a dramatic increase in mandates is part of the picture, but doesn't change what they can do with the ordinary operations of schools and the discretionary spending that can only be provided under the school district general fund budgets that are funded by the state of Montana. It is correct that total spending for all sources and all funds has slightly exceeded inflation during that period of time.

CHAIRMAN ZOOK said they don't reflect any dramatic increase from the federal government.

Mr. Melton said that was not correct; the federal funding for K-12 public education since 1994 has exceeded inflation by over \$20 million a year.

CHAIRMAN ZOOK thought **Mr. Melton** was referring to what Congress has put forward in the President George Bush's proposal.

Closing by Sponsor:

REP. KASTEN closed on the bill. The 2/3 vote is in current law on line 29, of page 4. He felt when the Governor builds her budget, education has always been a top priority; he didn't feel it would be a problem but maybe a way to try to kill the bill. It had been stated the bill will not work, but the financial professionals told him it would allow a natural growth in government in line with what taxpayers can afford. In the last session, they were building on revenue they didn't have. With this bill in place, government growth would have been less and the warning would have been there in 1999. Needs will be

budgeted first; if wants are needed, they'll get the 2/3 vote. Annual sessions might get more people involved in the budgeting process. **HB 19** is necessary to give the legislature a tool to reestablish a structurally balanced budget. Current law is not effective and causes staff to do extra unproductive work. Voting for **HB 19** would give the opportunity to make government run more efficiently, do away with bad laws, and get more productivity out of staff.

ADJOURNMENT

Adjournment: 10:15 A.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs56aad)